

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CE DESIGN LTD., an Illinois corporation,
individually and as the representative of a
class of similarly-situated persons,

Plaintiff,

v.

KING ARCHITECTURAL METALS,
INC.,

Defendant.

FILED: APRIL 2, 2009

09CV2057

JUDGE BUCKLO

MAGISTRATE JUDGE SCHENKIER

CH

Circuit Court of Cook County, Illinois
Chancery Division
2009 CH 08713

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331 1441, 1446, 1453, Defendant King Supply Company LLC d/b/a King Architectural Metals, Inc. ("King Supply Co.") hereby removes the above-captioned matter from the Circuit Court of Cook County, Illinois, to the United States District Court for the Northern District of Illinois, Eastern Division. In support of removal, King Supply Co. states as follows:

I. Background

1. Plaintiff, CE Design Ltd., commenced this litigation by filing a complaint in the Circuit Court of Cook County, Illinois, in an action entitled *CE Design Ltd. v. King Architectural Metals, Inc.*, No. 2009 CH 08713.

2. Defendant received a copy of the Summons and Class Action Complaint via courier on March 3, 2009. (*See* Affidavit of Patricia Manno, Exhibit B, ¶¶ 3-4.) Such delivery was the first occasion upon which Defendant received a copy of the Summons and Class Action Complaint. Attached hereto as Exhibit A is a true and correct copy of all process and pleadings that King Supply Co. has received from Plaintiff in accordance with 28 U.S.C. § 1446(a).

3. This Notice of Removal is timely, being filed and served within thirty (30) days of receipt by any defendant of the Summons and Class Action Complaint, in accordance with 28 U.S.C. § 1446(b). No further state court proceedings in the litigation have taken place as of the date of this Notice of Removal.

4. Immediately after the filing of this Notice of Removal, Defendant King Metals is filing a Notice of Removal to Federal Court, along with a copy of this Notice with the Clerk of the Circuit of Cook County, Illinois, in accordance with 28 U.S.C. § 1446(d). A true and correct copy of King Supply Co.'s Notice of Removal to Federal Court is attached as Exhibit C.

II. Basis for Removal

5. This Court has original "federal question" jurisdiction over this action pursuant to 28 U.S.C. § 1331, which provides that "[t]he district court shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." Plaintiff brings this case under the federal Telephone Consumer Protection Act, 47 U.S.C. § 227. (*See* Compl., Ex. A, at ¶¶ 2, 16-24.) Claims under the Telephone Consumer Protection Act establish federal question jurisdiction and are thus removable. *Brill v. Countrywide Home Loans, Inc.*, 427 F.3d 446, 450 (7th Cir. 2005); *see also C.E. Design Ltd. v. Kallman Worldwide, Inc.*, No. 06 C 2946, 2006 U.S. Dist. LEXIS 88251 (N.D. Ill. Dec. 5, 2006).

6. Plaintiff has admitted in other litigation that "TCPA cases are removable on federal question grounds." (*See* Exhibit D, at 3; *see also* Exhibit E, at 1, "[A] TCPA claim is removable on the basis of federal question jurisdiction.")

7. Accordingly, this Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1331, and the action is one that may be removed to this Court pursuant to the provisions of 28 U.S.C. § 1441(b).

8. King Supply Co. files this Notice of Removal without waiving any objections, exceptions or defenses to Plaintiff's Class Action Complaint.

WHEREFORE, Defendant King Supply Co. LLC d/b/a King Architectural Metals, Inc. respectfully notifies this Court that the Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331, and that removal of the above action from the Circuit Court of Cook County, Illinois, to this Court pursuant to 28 U.S.C. §§ 1441, 1446 and 1453 is appropriate.

DATED this 2nd day of April 2009.

Respectfully Submitted,

SEDGWICK, DETERT, MORAN & ARNOLD LLP

By: *Kimmie Leeson*
One of the Attorneys for
KING SUPPLY COMPANY LLC d/b/a
KING ARCHITECTURAL METALS, INC.

Anthony J. Anscombe ARDC# 6257352
C. Kimmier Lastimoso ARDC# 6277860
SEDGWICK, DETERT, MORAN & ARNOLD LLP
One N. Wacker Dr., Suite 4200
Chicago, IL 60606
Telephone: (312) 641-9050
Facsimile: (312) 641-9530

CERTIFICATE OF SERVICE

The undersigned attorney for Defendant King Supply Co. LLC d/b/a King Architectural Metals, Inc. certifies that on Thursday, April 02, 2009, a copy of the foregoing document was electronically filed. Notice of this filing will be sent to the parties by operation of the Court's electronic filing system. Notice was also sent to the attached Service List at their respective addresses via U.S. mail postage prepaid from One N. Wacker Drive, Suite 4200, Chicago, Illinois, on April 2, 2009 before 5:00 p.m..

Kimmie Leeson

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CE DESIGN LTD, an Illinois corporation,
individually and as the representative of a
class of similarly-situated persons,

Plaintiff,

v.

KING ARCHITECTURAL METALS,
INC.,

Defendant.

Circuit Court of Cook County, Illinois
Chancery Division
2009 CH 08713

Service List

Attorney for Plaintiff

Brian J. Wanca
Anderson & Wanca
3701 Algonquin Road, Suite 760
Rolling Meadows, IL 60008
(847) 368-1500
(847) 368-1501 (fax)